

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IMPOSITION OF A SENTENCE MAY BE DEFERRED FOR A FIRST OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION; PROVIDING THAT THE CONVICTION MAY NOT BE USED TO RAISE AN INSURANCE PREMIUM; AND AMENDING SECTION 61-8-734, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-8-734, MCA, is amended to read:

**"61-8-734. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of sentence not allowed for second or subsequent offense.** (1) (a) For the purpose of determining the number of convictions ~~under 61-8-714 or 61-8-722~~ for a violation of 61-8-401 or 61-8-406; and imposing any type of penalty under any provision of law for a second or subsequent conviction. "conviction" means a final conviction, as defined in 45-2-101, in this state; conviction for a violation of a similar statute or regulation in another state, or a federally recognized Indian reservation; or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state, another state, or a federally recognized Indian reservation, which forfeiture has not been vacated.

(b) An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction, unless the offense is the offender's fourth or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

(c) A previous conviction ~~under 61-8-714 or 61-8-722~~ for violation of 61-8-401 or 61-8-406 may be counted for purposes of determining the number of a subsequent conviction for violation of either 61-8-401 or 61-8-406.

(2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under 61-8-714 or 61-8-722 be served in another facility made available by the county and approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The court may

1 impose restrictions on the defendant's ability to leave the premises of the facility and require that the defendant  
2 follow the rules of that facility. The facility may be, but is not required to be, a community-based prerelease  
3 center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred by the  
4 sentencing court.

5 (3) Subject to the limitations set forth in 61-8-714 and 61-8-722 concerning minimum periods of  
6 imprisonment, the court may order that a term of imprisonment imposed under either section be served by  
7 imprisonment under home arrest, as provided in Title 46, chapter 18, part 10.

8 (4) A court may not defer imposition of sentence under 61-8-714 for a second or third offense, 61-8-722  
9 for a second or third offense, or 61-8-731.

10 (5) The provisions of 61-2-107, 61-2-302, 61-5-205(2), and 61-5-208(2), relating to suspension of  
11 driver's licenses and later reinstatement of driving privileges, apply to any conviction ~~under 61-8-714 or 61-8-722~~  
12 for a violation of 61-8-401 or 61-8-406."

13  
14 NEW SECTION. **Section 2. Limit on premium increase for driving under influence of alcohol or**  
15 **drugs or with excessive alcohol concentration.** A first conviction for either driving under the influence of  
16 alcohol or drugs under 61-8-401 or with an excessive alcohol concentration under 61-8-406 may not be a basis  
17 for a premium increase. A subsequent conviction for either type of offense may be a basis for a premium  
18 increase.

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20 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
21 integral part of Title 33, chapter 23, part 2, and the provisions of Title 33 apply to [section 2].

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